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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,646	03/16/2004	Harlan Seymour	20423-08590	3936

34415 7590 02/26/2007  
SYMANTEC/ FENWICK  
SILICON VALLEY CENTER  
801 CALIFORNIA STREET  
MOUNTAIN VIEW, CA 94041

EXAMINER
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LEWIS, ALICIA M

ART UNIT	PAPER NUMBER
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2164

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/26/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/26/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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bhoffman@fenwick.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/802,646	SEYMOUR ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alicia M. Lewis	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,8-15 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-15 and 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



**SAM RIMELL  
PRIMARY EXAMINER**

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This office action is responsive to communication filed November 22, 2006.

Claims 1, 5, 9, 14 and 18 have been amended, and claims 7 and 16 have been canceled. Therefore, claims 1-6, 8-15 and 17-22 are pending in this application.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5, 6, 8-15 and 17-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 5, 6 and 8-13 are directed to a method for adjusting access to a database. This claimed subject matter lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/phenomenon) since it fails to produce a useful, concrete and tangible result. Specifically, the claimed subject matter does not produce a tangible result because the claimed subject matter fails to produce a result that is limited to having real world value rather than a result that may be interpreted to be abstract in nature as, for example, a thought, a computation, or manipulated data. More specifically, the claimed subject matter provides for a final step of adjusting authorized database accesses. This produced result remains in the abstract and, thus, fails to achieve the required status of having real world value.

Claims 14, 15 and 17-22 are directed to a computer-readable medium containing instructions for adjusting access to a database. This claimed subject matter lacks a

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practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/phenomenon) since it fails to produce a useful, concrete and tangible result. Specifically, the claimed subject matter does not produce a tangible result because the claimed subject matter fails to produce a result that is limited to having real world value rather than a result that may be interpreted to be abstract in nature as, for example, a thought, a computation, or manipulated data. More specifically, the claimed subject matter provides for a final step of adjusting authorized database accesses. This produced result remains in the abstract and, thus, fails to achieve the required status of having real world value.

Claims 5, 6, 8-15 and 17-22 rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. Independent claims 5 and 14 are directed to a method/instructions for performing a series of steps to empirically adjust access to a database. However, the final adjusting step appears to call for full authorization and full denial at the same time. It recites in part, "to deny database access...on database tables and columns that were authorized but were not observed." This limitation implies that access is denied and authorized within the same step, which makes the claim inoperable. Examiner suggests clarifying the claims to show that the denial and authorization are performed in separate steps, more specifically that the denial of access occurs in the future. Claims 6, 8-13, 15 and 17-22 are rejected as being dependent on claims 5 and 14.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Mattsson (US Patent Application Publication 2003/0101355 A1).

With respect to claim 1, Mattsson teaches an apparatus for empirically adjusting access to a database, said apparatus comprising:

coupled to the database, a database discovery module for determining database structure and authorized accesses to the database (paragraphs 32 and 34-36);

coupled to the database, a command monitoring module for monitoring actual accesses to the database (paragraphs 33 and 50); and

coupled to the database discovery module and to the command monitoring module, an analysis module for comparing actual accesses with authorized accesses and for adjusting authorized accesses taking into account results of the comparing to deny database access to operations by certain users on database tables and columns that were authorized but not observed by the command monitoring module (paragraphs 37 and 42).

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Regarding the limitations of “for comparing actual accesses with authorized accesses” and “for adjusting authorized accesses taking into account results of the comparing to deny database access to operations by certain users on database tables and columns that were authorized but not observed by the command monitoring module,” it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

With respect to claim 2, Mattson teaches the apparatus of claim 1 further comprising, coupled to the database discovery module and to the analysis module, a storage area for accumulating data generated by the command monitoring module (paragraph 33).

With respect to claim 3, Mattson teaches the apparatus of claim 1 wherein the command monitoring module is a sniffer (paragraph 5).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mattsson (US Patent Application Publication 2003/0101355 A1) in view of Low et al. ("DIDAFIT: Detecting Intrusions in Databases through Fingerprinting Transactions") ('Low').

With respect to claim 4, Mattson teaches claim 1.

Mattson does not teach wherein the database is a relational database accessed by a structured query language.

Low teaches a method for using fingerprints to detect illegitimate accesses to databases (see abstract) in which he teaches wherein the database is a relational database accessed by a structured query language (abstract).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Mattson by the teaching of Low because wherein the database is a relational database accessed by a structured query language would enable a fingerprinting process to be used to detect anomalous database accesses involving SQL statements (Low, column 1, page 122).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 5 and 14 have been considered but are moot in view of the new ground(s) of rejection.


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Lewis whose telephone number is 571-272-5599. The examiner can normally be reached on Monday - Friday, 9 - 6:30, alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on 571-272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alicia Lewis  
February 16, 2007

  
**SAM RIMELL**  
PRIMARY EXAMINER